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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,326	07/22/2004	Richard C. Dunne	23-002-TN	1635
23400 7590 03/21/2008 POSZ LAW GROUP, PLC 12040 SOUTH LAKES DRIVE SUITE 101 RESTON, VA 20191				
EXAMINER CAMPEN, KELLY SCAGGS				
ART UNIT 3691		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/501,326

Applicant(s)

DUNNE, RICHARD C.

Examiner

KELLY CAMPEN

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 11 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 6-8, 10-14 and 18-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6-8, 10-14, 18-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6-8, 10-14, and 18-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Li (US 6453303).

Li discloses a method for analyzing the performance of a plurality of investments, wherein each investment is any one of a tradable asset, a portfolio of tradable assets, a non-tradable index and a non-tradable benchmark(see col. 2 lines 35-40), the method comprising: using a data source from which can be derived a percentage change in value of each investment during each of a plurality of consecutive reporting periods within a given time frame (see ‘measure of volatility’ col 1 lines 65 to col. 2 line 5 and col. 2 lines 13-28) for each investment, calculating values of an investment performance measurement for a plurality of overlapping holding periods within the time frame, respectively wherein each holding period of a period of time spanned by one of a single reporting period of a standard length of time and consecutive, contiguous reporting periods, each of a standard length of time (see col 2, lines 1-67), such that the length of each holding period is a multiple of the standard length of time (col. 4 and col. 5) and the investment performance measurement is a quantitative measurement of investment

performance(see 'real time and historic values' col. 2 lines 13-28; see col. 1, lines 65-67 'wide variety of financial assets'); ranking the investments based on the values of the investment performance measurement (see col. 2 lines 35-40).

Specifically as to claim 6, wherein the method includes, for each investment, calculating a weighted average of the values of the investment performance measurement for the plurality of holding periods and comparing the respective weighted averages of the investments (see col 2 lines 1-67; see 'weighted averages analysis', col. 4 lines 60 to col. 5 line 35).

Specifically as to claims 7 and 11 wherein the weighting factor to be applied to the value in respect of each holding period is based on the length of the holding period associated with each performance measurement value (see col. 2, lines 1-67; and see col. 2 "weighting factor" col 7 lines 35-50).

Specifically as to claim 8, wherein the method includes: calculating a measurement of similarity between each pair of investments for a plurality of holding periods (see col. 4, lines 15-30, 45-46); performing a mathematical conversion on the measurement of similarity such that these values are mapped into a range of positive values in which a lower positive value reflects a greater degree of similarity between the investments (see col. 5, lines 1-40); and using such converted or mapped values to partition the investments into groups such that the similarity among the investments within each group is as high as possible and the similarity between the investments in a given one of the groups and the investments of every other group is as low as possible (see col. 7 lines 40-52, see market Beta, VAR and Sharpe's ratio col. 5 lines 40-60 and 60-67, RSI and Stochastic Indicators K/D).

Specifically as to claim 10, wherein the method includes: calculating values of a plurality

of performance measurements for the plurality of holding periods for each investment; calculating a weighted average; calculating a standardized value for each of the weighted averages, wherein each standardized value is a number of standard deviations that the corresponding weighted average deviates from the mean of all weighted averages, for each of the performance measurements (see col. 7, lines 40-52); for each investment, calculating a weighted average of the standardized values for each of the performance measurements (see col. 5, lines 1-65), and performing a mathematical conversion on the resulting weighted averages such that the highest resulting weighted average is mapped to one-hundred percent, the lowest is mapped to zero percent and all other values are mapped within a range from zero percent to one hundred percent accordingly (see col. 5-col. 6).

Specifically as to claim 12 wherein the method includes, in respect of any performance measurement value for which a lower value reflects a better performance, multiplying the corresponding stored standardized value by a factor of negative one prior to calculating a weighted average of the standardized values (see col. 5 through col. 6, as it is inherent before calculating weighted average of standardized values).

Specifically as to claims 13 and 14, wherein the method includes storing the values of the performance measurement for each of the investments in a database prior to using the values to rank each investment (see col. 4 lines 3-15).

Specifically as to claim 18, wherein the method includes making an investment decision based on the results of the analysis (see col 6, lines 60-65).

Specifically as to claim 19, wherein the method includes calculating a probability of loss value by counting the number of the holding periods for which the return was negative and

dividing the total by the number of the holding periods (see col 5-6, VAR calculations col 4, line 60 to col. 5, line 27).

Specifically as to claim 20, wherein the method includes: calculating the percentage of a designated set of holding periods in which the value of a designated performance measurement for one investment represents a better performance than a designated fixed value. (see col. 5, lines 1-65, and col. 7 lines 40-52).

Specifically as to claim 21, wherein one hundred percent weighting is applied to a single holding period and zero percent weighting is applied to all other holding periods (see col 2 lines 1-67; see 'weighted averages analysis', col. 4 lines 60 to col. 5 line 35).

Specifically as to claim 22, wherein one hundred percent weighting is applied to a single standardized value and zero percent weighting is applied to all other standardized values (see col. 7, lines 40-52 and col 5, lines 1-65).

Specifically as to claim 23, calculating the percentage of a designated set of holding periods in which the value of a designated performance measurement for one investment reflects better performance than the value of the same performance measurement for another investment (see above rejection for claim 1).

Specifically as to claim 24, wherein the measurement of similarity between the performance measurements of each pair of investments is a correlation of returns between each pair of investments(see col. 4, lines 15-30, 45-46 and see col. 7 lines 40-52, see market BETA, VAR and Sharpe's ratio col. 5 lines 40-60 and 60-67, RSI and Stochastic Indicators K/D).

Specifically as to claim 25, wherein the weighting factor to be applied to the value in respect of each holding period is a percentage selected by the user such that the total of all weighting factors equals 100% (see col 2 lines 1-67; see 'weighted averages analysis, col. 4 lines 60 to col. 5 line 35).

Specifically as to claim 26, wherein the weighting factor to be applied to each standardized value is a percentage selected by the user such that the total of all weighting factors equals 100% (see col. 7, lines 40-52 and col 5, lines 1-65).

Specifically as to claim 27, wherein the investment performance measurement is one of the following: a) any quantitative measurement of the absolute performance of the investments; b) any quantitative measurement of the performance of a single investment relative to that of another investment; and c) any quantitative measurement of the performance of a single investment relative to a fixed reference value (see above rejection and citation for claim 1).

Response to Arguments

Applicant's amendments to the abstract have overcome the Objection to the Specification.

Applicant's amendments to the claims have overcome the rejections based of 35 USC 112 2nd paragraph. Accordingly, the rejections to claims 1-20 under 35 USC 112 second paragraph have been withdrawn.

Applicant's arguments with respect to claims 1, 6-8, 10-14, and 18-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KELLY CAMPEN whose telephone number is (571)272-6740. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Kalinowski/
Supervisory Patent Examiner, Art Unit
3691

/KSC/